## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 5:18-cv-00186-FDW

MICHAEL ODELL FAIR,	)	
Plaintiff,	)	
vs.	)	<u>ORDER</u>
ALLEN HOUSER, et al.,	)	
Defendants.	) ) )	

**THIS MATTER** is before the Court on Defendant's Motion for an Order Compelling Plaintiff to Attend his Deposition and Motion for Sanctions. [Doc. 25].

Defendant Allen Houser ("Defendant") moves the Court to compel the Plaintiff to attend his deposition and for sanctions for Plaintiff's failure to attend his properly noticed deposition on May 23, 2019. [Doc. 25]. A court has discretion to impose sanctions, including dismissal or default, when a party fails to provide court-ordered discovery or appear for a deposition. See Fed.R.Civ.P. 37, 41; Hathcock v. Navistar Intern'l Transp. Corp., 53 F.3d 36 (4th Cir. 1995).

For good cause shown in Defendant's brief in support of this motion [Doc. 26], the Court will grant Defendant's motion to compel Plaintiff to attend and participate in Plaintiff's next duly noticed deposition. The Court declines in its discretion to order sanctions at this time. Plaintiff's failure to comply with this Order may result in the imposition of sanctions, including the dismissal of Plaintiff's Complaint.

## **IT IS THEREFORE, ORDERED** that:

Defendant's Motion to Compel and for Sanctions [Doc. 25] is **GRANTED IN PART** insofar as Defendant's Motion to Compel is granted and **DENIED IN PART** insofar as

## Defendant's Motion for Sanctions is denied.

Signed: July 11, 2019

Frank D. Whitney
Chief United States District Judge